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EXAMINER

SHINGLES, KRISTIE D

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICKY F. COMBEST

Appeal 2009-011054
Application 09/539,662
Technology Center 2400

Before, ROBERT E. NAPPI, THOMAS S. HAHN, and
DAVID M. KOHUT, *Administrative Patent Judges*.

KOHUT, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the final rejection of claims 1-7, 28-47 and 51.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We affirm the Examiner's rejection of these claims.

¹ Claims 8-27 and 48-50 were previously withdrawn from consideration.

INVENTION

The invention is directed to a network and method for communicating, sharing information, and creating partnerships by allowing members access to each other's network access device. *See Spec. 5-7.*

Claim 1 is representative of the invention and is reproduced below:

1. A dynamic virtual network on which participating members can establish partnerships, communicate, and share information, the network comprising:

a network authority including a computer programmed for network administration;

at least a first network member and a second network member, each member including a computer comprising means for communicating over a global network;

at least a first network access device and a second network access device, wherein the first access device is accessible by the first network member and the second access device is accessible by the second network member each of the first network access device and the second network access device storing information about the corresponding one of the first network member and the second network member such that the information is searchable by the other one of the first network member and the second network member; and

for each network access device and the network authority, an interface facilitating connection to a global network.

REFERENCES

Schneider	US 6,105,027	Aug. 15, 2000 (filed Mar. 4, 1998)
Godefroid	US 6,697,840 B1	Feb. 24, 2004 (filed Feb. 29, 2000)

(filed Oct. 20, 2000)

REJECTIONS AT ISSUE²

Claims 1-3 and 7 are rejected under 35 U.S.C. § 102(e) as being anticipated by Godefroid. Ans. 4-5 and 11.

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Godefroid in view of Schneider. Ans. 9-10 and 14.

Claims 5-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Godefroid in view of Kleinpeter III. Ans. 10-11.

Claims 28-36, 38-44, and 51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kleinpeter III in view of Schneider. Ans. 11-13.

Claims 37 and 45-46 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kleinpeter III in view of Schneider and Godefroid. Ans. 13-15.

ISSUES

- a) Did the Examiner err in finding that Godefroid discloses each of a first network access device and a second network access device storing information about the corresponding one of a first network member and a second network member such that the information is searchable by the other one of the first network member and the second network member?
- b) Did the Examiner err in combining Schneider with Kleinpeter III?
- c) Did the Examiner err in finding that Godefroid in view of Kleinpeter III discloses transmitting and contemporaneously

² The following statements of rejections have been rewritten to reflect the groupings disclosed in the arguments section of the Examiner's Answer. Ans. 11-15. Since Appellant has not provided any specific arguments regarding these groupings, Appellant acquiesces to them.

archiving information from a first network member to a second network member; and receiving and contemporaneously archiving the transmitted information by the second network member?

ANALYSIS

A

Claim 1 recites “each of the first network access device and the second network access device storing information about the corresponding one of the first network member and the second network member such that the information is searchable by the other one of the first network member and the second network member.” Appellant selects claim 1 as representative of the group comprising claims 1-7.³ App. Br. 4. The Examiner finds that Godefroid discloses allowing one user to access another user’s information stored on the first user’s device, for instance, accessing calendar information. Ans. 11. Appellant argues that Godefroid does not disclose access to the individual network devices, but rather to a central PA (Presence Awareness) database that protects the privacy of individual network devices. App. Br. 6-7. We disagree. Godefroid makes it clear that the PA controllers, which are associated with each user interface, may receive information from other PA controllers directly, depending on the local user’s access policies. Col. 7, ll. 17-29. Thus, we agree with the Examiner that Godefroid discloses access to more than just a central PA, but also the user’s device, which includes both the user interface and the PA controller. Therefore, we sustain the Examiner’s rejections of claims 1-7.

³ Appellant notes that obviousness rejected dependent claims 4-6 are argued as a group with anticipation rejected claims 1-3 and 7, and that the grouped claims stand or fall together even though claims 4-6 are rejected over Godefroid in combination with different references. App. Br. 4.

B

The Examiner rejects claims 28-35 and 51 under 35 U.S.C. §103(a) as being unpatentable over Kleinpeter III in view of Schneider. Ans. 5-9. We select claim 28 as representative of the group comprising claims 28-35 and 51 since Appellant does not separately argue claims 29-35 or 51 with particularity. 37 C.F.R. § 41.37(c)(1)(vii). The Examiner finds that Kleinpeter III discloses the majority of claim 28 and finds that Schneider discloses the limitation requiring the method to use virtual network members. Ans. 6. Appellant argues that there is no motivation to combine the references since combining them produces features that are redundant and do not make logical or practical sense. App. Br. 9. For instance, Appellant contends that updating local access control database copies as disclosed in Schneider would make Kleinpeter III's agent server unnecessary. App. Br. 9. In response, the Examiner indicates that Schneider was solely used to show the establishment and use of a virtual network for user access. Ans. 12. Additionally, the Examiner finds that it would have been obvious to combine the references in order to permit "secure transparent communication for the users thereby creating a wide are[a] network capable of spanning large geographic regions with many users." Ans. 6. Appellant does not address these specific findings by the Examiner. Thus, we agree with the Examiner and sustain the Examiner's rejection of claims 28-35 and 51.

Regarding claims 36 and 38-44, Appellant repeats the same arguments as with respect to claim 28. App. Br. 10. For the reasons stated *supra*, we sustain the Examiner's rejection of claims 36 and 38-44.

C

Regarding claims 37 and 46, Appellant presents the same arguments as with respect to claim 36. App. Br. 10-11. Additionally, Appellant argues that since claims 37 and 46 depend upon claim 36, the references must disclose “transmitting and contemporaneously archiving information from a first network member to a second network member; and receiving and contemporaneously archiving the transmitted information by the second network member,” as recited in claim 36. App. Br. 10-11. While Appellant’s statement is true, Appellant has merely indicated that none of the references used to reject claims 37 and 46 disclose this limitation. App. Br. 11. Such conclusions are not considered a separate argument for patentability. *See In re Lovin*, 99 USPQ2d 1373, 1379 (Fed. Cir. 2011) (stating that interpreting 37 C.F.R. § 41.37(c)(1)(vii) to require a more substantive argument than a naked assertion that the prior art fails to teach a limitation in order to address a claim separately is not an unreasonable interpretation of the rule). Additionally, any arguments not presented are waived. *See Ex parte Borden*, 93 USPQ2d 1473, 1474 (BPAI 2010) (informative). As discussed *supra*, we agree with the Examiner’s finding with respect to claim 36. Additionally, the Examiner finds that Kleinpeter III discloses a system wherein information is copied onto a receiving user’s device in a timely manner after a connection partnership is established. Ans. 13. Thus, in the absence of a specific argument as to why the Examiner’s findings are erroneous, we find no basis to conclude the Examiner erred in rejecting of claims 37 and 46.

Regarding claim 45, Appellant repeats the same arguments as with respect to claims 37 and 46. App. Br. 11-12. For the reasons stated *supra*, we sustain the Examiner's rejection of claim 45.

CONCLUSIONS

- a) The Examiner did not err in finding that Godefroid discloses each of a first network access device and a second network access device storing information about the corresponding one of a first network member and a second network member such that the information is searchable by the other one of the first network member and the second network member.
- b) The Examiner did not err in combining Schneider with Kleinpeter III.
- c) The Examiner did not err in finding that Godefroid in view of Kleinpeter III discloses transmitting and contemporaneously archiving information from a first network member to a second network member; and receiving and contemporaneously archiving the transmitted information by the second network member.

SUMMARY

The Examiner's decision to reject claims 1-7, 28-47, and 51 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136 (a)(1)(iv).

AFFIRMED

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